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MONTANA LEGISLATIVE HISTORY

Chapter 286 1993

Bill H 489 S _____ Original bill & history ____C

H. Committee on Human Services and Aging			S. Committee on Public Health Welfare & Safety		
Hearing Date(s)	Feb 10	✓ C	Hearing Date(s)	Mar 22	✓ C
	Feb 12	✓ C			C
		C			C
		C			C
Date Out	Feb 13	✓ C		Mar 23	✓ C

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

	TRANSMITTED TO SENATE		
3/01	FIRST READING		
3/01	REFERRED TO LABOR & EMPLOYMENT RELATIONS		
3/16	HEARING		
3/18	TABLED IN COMMITTEE		
3/19	MOTION FAILED TO TAKE FROM COMMITTEE AND PLACE ON 2ND READING	20	29

HB 488 INTRODUCED BY BRANDEWIE, ET AL.

DIRECT DEPARTMENT OF STATE LANDS TO ESTABLISH A SALVAGE TIMBER PROGRAM

2/05	INTRODUCED		
2/05	REFERRED TO NATURAL RESOURCES		
2/05	FIRST READING		
2/05	FISCAL NOTE REQUESTED		
2/10	FISCAL NOTE RECEIVED		
2/10	FISCAL NOTE PRINTED		
2/12	HEARING		
2/17	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/19	2ND READING PASSED	98	0
2/22	3RD READING PASSED	99	0
	TRANSMITTED TO SENATE		
3/01	FIRST READING		
3/01	REFERRED TO NATURAL RESOURCES		
3/22	HEARING		
3/24	COMMITTEE REPORT—BILL CONCURRED		
3/26	2ND READING CONCURRED	37	0
3/27	3RD READING CONCURRED	48	0
	RETURNED TO HOUSE		
3/31	SIGNED BY SPEAKER		
4/01	SIGNED BY PRESIDENT		
4/02	TRANSMITTED TO GOVERNOR		
4/07	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 285		
	EFFECTIVE DATE: 10/01/93		

HB 489 INTRODUCED BY R. JOHNSON

CLARIFY DO NOT RESUSCITATE IDENTIFICATION LAW

2/05	INTRODUCED		
2/05	REFERRED TO HUMAN SERVICES & AGING		
2/05	FIRST READING		
2/10	HEARING		
2/15	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/17	2ND READING PASSED	98	1
2/19	3RD READING PASSED	95	3
	TRANSMITTED TO SENATE		
2/22	FIRST READING		
2/22	REFERRED TO PUBLIC HEALTH, WELFARE & SAFETY		
3/22	HEARING		
3/23	COMMITTEE REPORT—BILL CONCURRED		
3/25	2ND READING CONCURRED	49	0
3/26	3RD READING CONCURRED	46	0
	RETURNED TO HOUSE		
3/31	SIGNED BY SPEAKER		
4/01	SIGNED BY PRESIDENT		
4/02	TRANSMITTED TO GOVERNOR		
4/07	SIGNED BY GOVERNOR		

CHAPTER NUMBER 286
EFFECTIVE DATE: 04/07/93

HB 490 INTRODUCED BY ORR

PROVIDE THAT STATE GASOLINE TAX IS IMPOSED UPON ALL GASOLINE IMPORTED INTO MONTANA

BY REQUEST OF DEPARTMENT OF TRANSPORTATION

2/05	INTRODUCED		
2/05	REFERRED TO TAXATION		
2/05	FIRST READING		
2/05	FISCAL NOTE REQUESTED		
2/11	HEARING		
2/12	FISCAL NOTE RECEIVED		
2/12	FISCAL NOTE PRINTED		
2/12	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/13	2ND READING PASSED	94	4
2/16	3RD READING PASSED	93	6
	TRANSMITTED TO SENATE		
2/20	FIRST READING		
2/20	REFERRED TO TAXATION		
3/16	HEARING		
3/16	COMMITTEE REPORT—BILL CONCURRED		
3/17	2ND READING CONCURRED	49	0
3/18	3RD READING CONCURRED	48	1
	RETURNED TO HOUSE		
3/24	SIGNED BY SPEAKER		
3/25	SIGNED BY PRESIDENT		
3/25	TRANSMITTED TO GOVERNOR		
3/30	SIGNED BY GOVERNOR		

CHAPTER NUMBER 231
EFFECTIVE DATE: 10/01/93

HB 491 INTRODUCED BY SIMON

REVISE PROCEDURES FOR PREPARING AND FILING DEATH CERTIFICATES

2/05	INTRODUCED		
2/05	REFERRED TO HUMAN SERVICES & AGING		
2/05	FIRST READING		
2/05	FISCAL NOTE REQUESTED		
2/10	HEARING		
2/10	FISCAL NOTE RECEIVED		
2/10	FISCAL NOTE PRINTED		
2/15	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/16	2ND READING PASSED	88	9
2/18	3RD READING PASSED	93	4
	TRANSMITTED TO SENATE		
2/20	FIRST READING		
2/20	REFERRED TO PUBLIC HEALTH, WELFARE & SAFETY		
3/22	HEARING		
3/23	COMMITTEE REPORT—BILL CONCURRED		
3/25	2ND READING CONCURRED	49	0
3/26	3RD READING CONCURRED	46	0
	RETURNED TO HOUSE		
3/31	SIGNED BY SPEAKER		
4/01	SIGNED BY PRESIDENT		
4/02	TRANSMITTED TO GOVERNOR		
4/07	SIGNED BY GOVERNOR		

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON HUMAN SERVICES & AGING

Call to Order: By **CHAIRMAN BILL BOHARSKI**, on February 10, 1993, at 3:00 P.M.

ROLL CALL

Members Present:

Rep. Bill Boharski, Chair (R)
Rep. Bruce Simon, Vice Chair (R)
Rep. Stella Jean Hansen, Vice Chair (D)
Rep. Beverly Barnhart (D)
Rep. Ellen Bergman (R)
Rep. John Bohlinger (R)
Rep. Tim Dowell (D)
Rep. Duane Grimes (R)
Rep. Brad Molnar (R)
Rep. Tom Nelson (R)
Rep. Sheila Rice (D)
Rep. Tim Sayles (R)
Rep. Liz Smith (R)
Rep. Carolyn Squires (D)

Members Excused: Rep. Strizich, Rep. Russell

Members Absent: None

Staff Present: David Niss, Legislative Council
Alyce Rice, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing:	HB 489, HB 497, HB 491
Executive Action:	SB 152, HB 316, HB 229, HB 355, HB 391, SB 209, SB 187, SB 89, HB 315, HJR 7, HJR 8

HEARING ON HB 489

Opening Statement by Sponsor:

REP. ROYAL JOHNSON, House District 88, Billings, said the Comfort One Program has worked out very well in Montana. People who have a living will are more easily identifiable under the Comfort One

Program. People can have living wills but if they fail to register the living will on the form the state provides, it doesn't apply to an emergency medical situation. He asked the committee to listen closely to the testimony.

Proponents' Testimony:

Drew Dawson, Chief, Emergency Medical Services Bureau, Department of Health and Environmental Sciences. Written testimony. **EXHIBIT 1.**

Dick Brown, Senior Vice President, Montana Hospital Association. Written testimony. **EXHIBIT 2.**

REP. TIM SAYLES, House District 61, Missoula, said he is an emergency medical services (EMS) provider for the Missoula fire department. He said when he is called to an emergency scene his responsibility is to care for the injured individual to the best of his ability. Sometimes injured people have a living will and are revived against their wishes. It would be very beneficial to the EMS provider at the emergency site if the injured person had a do not resuscitate (DNR) identification bracelet on. EMS providers are liable by law to provide lifesaving services. Sometimes families make the mistake of calling emergency services when they know their loved one is terminal. They tell the EMS provider the patient has a living will but they don't have it with them. Consequently, the patient must be given lifesaving services. He said it is extremely costly to go through the resuscitation efforts. He urged support of HB 489.

Rose Hughes, Executive Director, Montana Health Care Association(MHCA), presented an amendment that addresses the issues and problems in terms of the relationship between living wills and DNR orders. She said the amendment would resolve the issues. **EXHIBIT 3.** MHCA has no objection to HB 489. The association's concern is that there is a great deal of confusion in nursing homes about the relationship between the living will statute and the DNR statute. Recently the association learned that patients with living wills needed an additional form prescribed by the state under the Comfort One Program. The form must be signed by the patient's physician, and the patient must have proper DNR identification; otherwise the patient's wishes could not be met by the EMS provider. The amendments are designed to allow nursing homes to provide EMS providers with a written DNR order or a written living will, and a qualifying condition certification signed by a resident's physician. There would be no need to obtain additional DNR identification. Appropriate documentation for residents of nursing homes is already available to EMS personnel from facility personnel. Requiring residents to incur additional expense is not necessary and makes it more difficult for the residents and their families to ensure that their wishes will be complied with.

Bonnie Adee, Manager, Hospice of St. Peters Hospital, urged

support of HB 489.

Opponents' Testimony:

None

Questions From Committee Members and Responses:

REP. CAROLYN SQUIRES asked **Rose Hughes** where the problem would be encountered if the long term nursing care facility had the living will and the DNR order. **Ms. Hughes** said if the family decided to move the patient to the hospital, called an ambulance, and the patient became ill on the way to the hospital, the patient would be resuscitated even though there was a living will.

REP. BRAD MOLNAR asked **Ms. Hughes** if a physician is required to abide by living wills. **Ms. Hughes** said a physician is required to abide by a living will. If the physician doesn't wish to abide by the living will, the patient must be transferred to another physician.

REP. SQUIRES asked **Ms. Hughes** if the living will was sent along with the patient to the hospital. **Ms. Hughes** said she understood that appropriate medical records including living will documentation is sent with the patient.

REP. SQUIRES asked **Dick Brown** why he didn't feel there was a problem with the language in HB 489 when the nursing homes feel there is a problem. **Mr. Brown** said the association visited a number of nursing homes, and after explaining the program to them, they no longer had a concern. He said there is no need to amend the language in HB 489.

REP. SQUIRES asked **Drew Dawson** to comment on the amendment. **Mr. Dawson** said when EMS personnel arrive at the scene, whether it is in the field or in the nursing home, the living will does not portray enough information. The living will is not activated until there is a declaration of a terminal illness. Even if the paperwork accompanies the patient, it is very difficult for the EMS provider to interpret it at the scene if it isn't a standard statewide form, when a decision must be made within 30 seconds. During the transfer, medical records are often sealed and not accessible to the EMS provider. One of the reasons for presenting the bill is to make sure there is only one form and one bracelet to make it easier for the EMS provider to make a quick and accurate decision whether or not to resuscitate the patient.

REP. SQUIRES asked **Mr. Dawson** if he felt that the only patient that should not be resuscitated would be the patient in the Comfort One Program. **Mr. Dawson** said that was correct.

REP. BRUCE SIMON said his 88 year old mother was concerned about being resuscitated against her will, she bought a bracelet that

said "No CPR" after consulting with her physician. He asked **Mr. Dawson** if the bracelet would be valid in case of an emergency. **Mr. Dawson** said it would not be valid. EMS providers are immunized under the Comfort One law only. **REP. SIMON** asked **Mr. Dawson** if a form would be valid if it was made up exactly like the state form except for the Comfort One logo. **Mr. Dawson** said it would not be valid. The statute requires a uniform form of statewide design. Also, if EMS providers are provided with different varieties of forms or bracelets at crisis scenes, they won't know what is valid and it becomes impossible to make a split second decision. The reason for the Comfort One Program is to make it crystal clear to the EMS providers what should be honored. Often there is intense disagreement at the scene during the last moments among family members. One family member might say the patient should be resuscitated, and another family member might say the patient should not be resuscitated. The EMS personnel are then caught in the middle. HB 489 eliminates that type of situation.

Closing by Sponsor:

REP. ROYAL JOHNSON closed.

HEARING ON HB 497

Opening Statement by Sponsor:

REP. LIZ SMITH, House District 48, Deer Lodge, said HB 497 was being introduced at the request of the Department of Family Services(DFS). The bill clarifies the financial responsibility of DFS for administrative costs of the provision of protective services.

Proponents' Testimony:

Jess Monroe, Deputy Director, Department of Family Services, said HB 497 has been years in the drafting. The bill provides for the continuation of payment of salaries and travel for protective service employees by the counties. All other costs will be paid by DFS. The fiscal note attached to the bill points out costs of $690,892 in FY 1994 and $532,852 in FY 1995.

Gordon Morris, Director, Montana Association of Counties, presented resolution 90-17. **EXHIBIT 4.** He urged support of HB 497.

Mike Matthew, Commissioner, Yellowstone County, said the fiscal note attached to HB 497 concerned him. The Department of Social and Rehabilitation Services(SRS) has proposed that the cost of their new computer system be passed on to the counties. The cost of the computers should be placed upon the counties. He said he would rather have the cost of the computers be part of the counties' responsibility than the administrative costs, because

HOUSE OF REPRESENTATIVES

HUMAN SERVICES AND AGING COMMITTEE

ROLL CALL DATE 2-10-93

NAME	PRESENT	ABSENT	EXCUSED
REP. BILL BOHARSKI, CHAIRMAN	✓		
REP. BRUCE SIMON, VICE CHAIRMAN	✓		
REP. STELLA JEAN HANSEN, V. CHAIR	✓		
REP. BEVERLY BARNHART	✓	-	
REP. ELLEN BERGMAN	✓		
REP. JOHN BOHLINGER	✓		
REP. TIM DOWELL	✓		
REP. DUANE GRIMES	✓		
REP. BRAD MOLNAR	✓		
REP. TOM NELSON	✓		
REP. SHEILA RICE	✓		
REP. ANGELA RUSSELL			✓
REP. TIM SAYLES	✓		
REP. LIZ SMITH	✓		
REP. CAROLYN SQUIRES	✓		
REP. BILL STRIZICH			✓
			-

EXHIBIT 1
DATE 2-10-93
HB 489

HOUSE BILL 489

Testimony of Drew Dawson

February 10, 1993

Mr. Chairman and members of the committee. I am Drew Dawson, Chief of the Emergency Medical Services Bureau of the Department of Health and Environmental Sciences. I am pleased to support House Bill 489 which was introduced by Representative Johnson at the request of the Department. This bill corrects a technical defect in legislation enacted last session.

Responding to a patient who is not breathing and who has no pulse is a very emotional and difficult situation for both the family and the emergency medical personnel. Sometimes, when death is anticipated, the patient and their physician have previously decided the patient's life should not be extended by the application of Cardiopulmonary Resuscitation. However, the EMS personnel are often faced with conflicting information at the scene by family and friends who are, understandably, quite upset. They must make split-second, life and death decisions. Ethical advances have made "death with dignity" more acceptable and Do-Not-Resuscitate orders more common.

A living will serves as instructions to the patient's physician *if* the patient becomes terminally ill. An individual can declare a living will anytime; however, it is not activated until the patient has a physician-diagnosed terminal condition and the patient is unable to make their own decisions. As extensively discussed during previous legislative sessions, a living will itself is not considered applicable to emergency medical services providers.

The challenge has been to devise a method for EMS providers to know, **immediately and unequivocally,** when they are to withhold life-sustaining treatment. The Montana legislature has adopted two laws, now national models, which honor the wishes of the terminally ill or very sick patient to die with dignity while providing clear-cut identification, protocols and liability protection for emergency medical services providers.

1989 legislation allows the issuance of a standard identification (form, wallet card, bracelet) to persons who have signed a living will and who have been declared terminally ill. In 1991, legislation was adopted allowing this same state-wide, standard identification to be issued to persons for whom a physician has issued a Do-Not-Resuscitate order.

Because of a drafting error not detected until recently, the 1991 legislation also technically allows the DNR identification to be issued to an individual who possesses only a living will even though they are not terminally ill. This could theoretically result in the failure to resuscitate a patient who should be resuscitated. House Bill 489 clarifies that the identification cannot be issued to a person who has only a living will in the absence of a terminal condition.

We are proud of state-wide efforts to implement this program. With the limited financial and staffing resources of the department, we contracted with the Montana Hospital Association to design and distribute forms and bracelets, to conduct educational programs, and to respond to inquiries. We would be pleased to provide you with this information. The Montana Board of Medical Examiners has adopted a state-wide protocol governing the actions of the emergency medical providers. The standard state-wide form, wallet card, and bracelet are essential to our educational efforts, to assure consistency, and to assure the wishes of the patient are reliably honored.

This entire program has been named **COMFORT ONE** to imply that we are providing comforting, supporting and appropriate care to the dying patient. A state-wide task force of medical, emergency medical, hospice, home health, hospital and other personnel has enthusiastically guided our implementation efforts. As we learn about this new ground we are breaking, we will continue to make improvements in the **COMFORT ONE** program.

I encourage your support of HB 489 to correct last session's drafting problem. I would be pleased to respond to questions.

EXHIBIT 2
DATE 2-10-93
HB 489

MHA MONTANA HOSPITAL ASSOCIATION

1720 NINTH AVENUE • P.O. BOX 5119
HELENA, MT. 59604 • (406) 442-1911

Testimony before the
House Human Services & Aging Committee
by Dick Brown, Senior Vice President
Montana Hospital Association
February 10, 1993

Mr. Chairman, members of the Committee, I am Dick Brown, Senior Vice President of the Montana Hospital Association. I offer the following comments in support of House Bill 489.

The bill offers an amendment to the Do Not Resuscitate (DNR) law in an effort to clarify language in regard to pre-hospital DNR.

In September of 1991, MHA entered an agreement with the Montana Department of Health & Environmental Sciences (DHES) for the purpose of implementing the prehospital DNR law in Montana. Through the efforts of the DHES, the MHA and a Task Force comprised of representatives from various groups and associations across the state, the pre-hospital DNR law has been developed as the Comfort One program. This program meets the need for prehospital providers to know at the scene when emergency personnel are activated and/or while providing transportation to a patient, immediately and unequivocally, when they are to withhold life-sustaining treatment while providing appropriate symptom control and comfort measures.

Enrollees in the Comfort One program are identified by a bracelet, card and/or form. Individuals can be enrolled in Comfort One by a physician or licensed hospice representative if the individual has a living will in accordance with Montana law and has been declared terminally ill by their physician. In lieu of a terminal condition, patients who have a DNR order issued by a physician are also eligible for enrollment. Since

implementation of the program, a question regarding enrollment has been presented, and this bill will help clarify exactly who is eligible to participate. House Bill 489 clarifies that an individual must be declared terminally ill, in addition to having a living will. The physician DNR does not change.

In our experience with this program, we have learned that EMS providers follow the Comfort One protocol in regards to resuscitative measures for all patients and feel that Comfort One more clearly defines the actions they are to take.

Since the July 1, 1992, implementation of Comfort One, we have record of 390 individuals enrolled. This figure represents individuals residing in nursing homes, retirement centers and in private homes.

Other states are facing the same dilemma of pre-hospital DNR that was identified in Montana. Many are beginning to adopt the Montana protocols and are using the Montana law and Comfort One program as a model. There has been discussion regarding the potential for a nationally recognized program.

Although initially enrolling hospice and home health patients, it became quickly evident that nursing home residents and others were interested in enrolling in the Comfort One program. As this program develops, more patients and other Montana residents will become enrolled. To avoid question and confusion regarding resuscitation at a scene when EMS personnel are activated or during transport it is important to keep the DNR law intact but to allow for the clarification language provided in this bill. Amending the law to only change the clarification language as presented in this bill will ensure that the same protocol is followed for all Montanans regardless of location or destination, while at the same time provide a clearer method for determining prehospital DNR applicability.

I thank you for the opportunity to testify on behalf of this bill.

EXHIBIT 3
DATE 2-10-93
HB 489

HOUSE BILL NO. 489

DO NOT RESUSCITATE IDENTIFICATION

Proposed Amendments

Montana Health Care Association

1. Amend the title, page 1, line 7
Following: "CONDITION;"
Insert: "AMENDING THE DEFINITION OF DNR IDENTIFICATION;"

2. Amend Section 1, subsection (4), page 2, line 3
Delete: "."
Insert: "; except that a written do-not-resuscitate order or written living will and qualifying condition certification signed and dated by a physician and presented to medical emergency services personnel by a licensed long term care facility shall constitute DNR identification under this part."

3. Amend section 1, page 2, following line 18, add a new subsection:
Insert: "(10) "Living will and qualifying condition certification" means a statement from a licensed physician that the person identified has a living will declaration on file in accordance with Montana law and has been certified as having a terminal illness."

Renumber: subsequent section

Rationale: These amendments are designed to allow nursing homes to provide emergency medical services personnel with a written DNR order or a written living will and qualifying condition certification signed by a resident's physician without the need to obtain additional DNR identification. Many nursing home residents have living wills and/or DNR orders. Without this amendment, EMS personnel will not honor those DNR orders or living wills without the resident or family going through the additional procedure of obtaining the specific DNR form, card or bracelet mandated by DHES. As residents of a long term care facility, appropriate documentation is already available to EMS personal from facility personnel. Requiring these individuals to meet additional requirements and incur additional expense is not necessary and makes it that much more difficult for these residents and their families to insure that their wishes will be complied with.

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

Human Services COMMITTEE BILL NO. HB 489

DATE 2/10/93 SPONSOR(S) Rep. Royal Johnson

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Drew Dawson	~~HB 489~~ Dept Health	✓	
Dick Brown	MT. Hosp. Assn	✓	
Stacey Benefield	MT Hosp. Assn.	✓	
Katharine Donnelly	MHA	✓	
Bonnie Adee	MHA	✓	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

EXECUTIVE ACTION ON HB 491

Motion: REP. SIMON MOVED HB 491 DO PASS.

Motion: REP. SIMON MOVED THE AMENDMENTS TO HB 491. EXHIBIT 5.

Discussion: REP. SIMON said the amendment was requested by the Attorney General's office.

Vote: REP. DOWELL called the question. Voice vote was taken. Motion CARRIED unanimously.

Motion/Vote: REP. SIMON MOVED HB 491 DO PASS AS AMENDED. REP. DOWELL called the question. Voice vote was taken. Motion CARRIED unanimously.

Vote: HB 491 DO PASS AS AMENDED.

EXECUTIVE ACTION ON HB 489

Motion: REP. SAYLES MOVED HB 489 DO PASS.

Motion: REP. SIMON MOVED THE AMENDMENTS TO HB 489. EXHIBIT 6.

Discussion: REP. SIMON explained the amendments.

CHAIRMAN BOHARSKI asked Drew Dawson, Department of Family Services, to comment on several questions that have been raised regarding the use of a statewide form, and the cost and availability of the form. Mr. Dawson submitted written testimony. EXHIBIT 7.

REP. SMITH asked Mr. Dawson why the phrase "comfort one" isn't in HB 489. Mr. Dawson said the phrase "comfort one" has been adopted by administrative rule. All of the educational materials that have been disseminated deal with the "comfort one" concept.

REP. SAYLES asked Mr. Dawson asked if their would be more than one type of bracelet. Mr. Dawson said there should not be more than one standard bracelet.

CHAIRMAN BOHARSKI asked Mr. Dawson if the hospital association held the copyright on the form. Mr. Dawson said the hospital association holds the copyright on the form and the state holds the copyright on the comfort one logo. CHAIRMAN BOHARSKI asked Mr. Dawson if the state currently had a contract with the hospital association and for how long. Mr. Dawson said the contract is terminated at this time. Plans are to have another contract with the hospital association because the state does not have the resources to manage the program.

Vote: REP. DOWELL called the question. Voice vote was taken. Motion CARRIED unanimously.

Vote: REP. NELSON called the question. Voice vote was taken. HB 489 DO PASS AS AMENDED. Motion CARRIED unanimously.

Vote: HB 489 DO PASS AS AMENDED.

EXECUTIVE ACTION ON HB 135

Motion: REP. SAYLES MOVED HB 135 DO PASS.

Motion: REP. SAYLES MOVED to adopt the amendments to HB 135 EXHIBIT 8.

Discussion: Penny Robbe, Family Assistance Division, Social and Rehabilitation Services, said most of the amendments are changes in language in order to specify which department is responsible for which provision of services. The effective date has been changed from July 1, 1993 to October 1, 1993.

REP. BOHLINGER asked Ms. Robbe why it is necessary to switch responsibility from one department to another. Ms. Robbe said this was done in response to Governor Racicot's directive to streamline agencies and avoid duplication of services.

Roger Lavoie, Administrator, Family Assistance Division, Social and Rehabilitation Services, said there are some suggested changes to the amendments that staff from the Department of Family Services can address.

Boyce Fowler, Department of Family Services said amendment no. 9 is not needed because it has been covered in HB 118. Amendment no. 14 because the resource and referral agencies are currently providing certification of eligibility for the block grant and plan to continue. Mr. Fowler recommended that both amendments be deleted.

Motion/Vote: REP. SIMON moved to adopt the amendments, excluding amendments no. 9 and 14. Voice vote was taken. Motion CARRIED unanimously.

Discussion: CHAIRMAN BOHARSKI said there are additional amendments to HB 135 that need to be drafted. He said he would continue the executive action on HB 135 monday.

HOUSE OF REPRESENTATIVES

HUMAN SERVICES AND AGING COMMITTEE

ROLL CALL DATE 2-12-93

NAME	PRESENT	ABSENT	EXCUSED
REP. BILL BOHARSKI, CHAIRMAN	✓		
REP. BRUCE SIMON, VICE CHAIRMAN	✓		
REP. STELLA JEAN HANSEN, V. CHAIR	✓		
REP. BEVERLY BARNHART	✓		
REP. ELLEN BERGMAN	✓		
REP. JOHN BOHLINGER	✓		
REP. TIM DOWELL	✓		
REP. DUANE GRIMES	✓		
REP. BRAD MOLNAR	✓		
REP. TOM NELSON	✓		
REP. SHEILA RICE			✓
REP. ANGELA RUSSELL			✓
REP. TIM SAYLES	✓		
REP. LIZ SMITH	✓		
REP. CAROLYN SQUIRES			✓
REP. BILL STRIZICH			✓

HOUSE STANDING COMMITTEE REPORT

February 13, 1993

Mr. Speaker: We, the committee on Human Services and Aging report that House Bill 489 (first reading copy -- white) do pass as amended .

Signed: Wm E Boharski
Bill Boharski, Chair

And, that such amendments read:

1. Title, line 7.
Following: "CONDITION;"
Insert: "REQUIRING A DNR IDENTIFICATION FORM TO BE READILY AVAILABLE;"

2. Page 2.
Following: line 20
Insert: "NEW SECTION. Section 2. DNR form to be readily available. The department shall ensure that the DNR identification form approved by the department is readily available at no cost or at a nominal charge."

Renumber: subsequent section

3. Page 2.
Following: line 22
Insert: "NEW SECTION. Section 4. Codification instruction. [Section 2] is intended to be codified as an integral part of Title 50, chapter 10, part 1, and the provisions of Title 50, chapter 10, part 1, apply to [section 2]."

-END-

Committee Vote:

EXHIBIT 6
DATE 2-12-93
HB 489

Amendments to House Bill No. 489
First Reading Copy

Requested by Rep. Simon
For the Committee on Human Services and Aging

Prepared by David S. Niss
February 12, 1993

1. Title, line 7.
Following: "CONDITION;"
Insert: "REQUIRING A DNR IDENTIFICATION FORM TO BE READILY AVAILABLE;"

2. Page 2.
Following: line 20
Insert: "NEW SECTION. **Section 2. DNR form to be readily available.** The department shall ensure that the DNR identification form approved by the department is readily available at no cost or at a nominal charge."

Renumber: subsequent section

3. Page 2.
Following: line 22
Insert: "NEW SECTION. **Section 4. {standard} Codification instruction.** [Section 2] is intended to be codified as an integral part of Title 50, chapter 10, part 1, and the provisions of Title 50, chapter 10, part 1, apply to [section 2]."

EXHIBIT 7
DATE 2-12-93
HB 489

DEPARTMENT OF
HEALTH AND ENVIRONMENTAL SCIENCES
EMS BUREAU

COGSWELL BUILDING
1400 BROADWAY

STATE OF MONTANA

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MEMORANDUM

TO: William Boharski, Chair
House Human Services and Aging Committee

FROM: Drew E. Dawson, Chief
Emergency Medical Services Bureau

RE: Questions concerning House Bill 489

DATE: February 12, 1993

We visited this morning about the following **COMFORT ONE** issues:

USE OF SINGLE STATE-WIDE FORM

To assure the patient's wishes are reliably followed, it is essential to have a single state-wide **COMFORT ONE** form, wallet card and bracelet. This assures rapid recognition by the emergency medical services providers and avoids potentially fatal mistakes. A single point of printing and bulk distribution of the forms is necessary to avoid abuse/mistakes and for program evaluation.

MONTANA HOSPITAL ASSOCIATION

Because no additional funds were allocated for program implementation, we contracted with the Montana Hospital Association (MHA) to manage the **COMFORT ONE** program. The contract requires MHA to *"...develop procedures to disseminate the forms and bracelets to hospitals, hospices, physicians' offices, and long-term care facilities, including a structure of fees sufficient to pay for the implementation of the COMFORT ONE program...* The contract also requires development of education programs, brochures and a variety of other issues related to program implementation. Our intention was to make the entire **COMFORT ONE** program financially self-sufficient. MHA has done an excellent job!

COST OF FORM

While the cost of each form is now one dollar each, the MHA now has a different printer supplying the forms for half of their original cost. The cost of the forms will immediately be reduced to $.50 or less.

EXHIBIT 7
DATE 2/12/93
HB 489

AVAILABILITY OF FORMS

From the beginning of the **COMFORT ONE** program, it has been our intention to have a supply of forms, wallet cards and bracelets available at every hospital, physician's office, long-term care facility, hospice program and home-health agency. Having the **COMFORT ONE** form available during patient admission would be a tremendous benefit. The MHA does not distribute forms and jewelry to individual patients. They could make the forms available to the Montana Health Care Association for distribution to long-term care facilities. To assure program integrity, each agency distributing forms is asked to sign a Forms Distribution Agreement agreeing to adhere to **COMFORT ONE** guidelines.

INFORMATION DISSEMINATION

Since the implementation of the program in July, 1992, every hospital, long-term care facility, home health agency, hospice program, physician and emergency medical services agency has received information about **COMFORT ONE**. The first priority was to train emergency medical services providers. 172 **COMFORT ONE** instructors have been trained; they have trained an estimated 2572 emergency medical services providers.

To increase awareness, we can certainly make arrangements to provide a limited complimentary supply of forms to hospitals and long-term care facilities. The mailing to long-term care facilities could be coordinated with the Montana Health Care Association.

During the remainder of this fiscal year, we plan to increase public awareness of the **COMFORT ONE** program.

On behalf of Montana's emergency medical services providers, we appreciate your interest in the **COMFORT ONE** program. I would be pleased to visit with you at any time.

cc: Dale Taliaferro
Bob Robinson

None.

Questions From Committee Members and Responses:

Bonnie Tippy, Montana Funeral Directors Association, provided written testimony. (Exhibit #1)

Closing by Sponsor:

Rep. Simon said HB 491 is a compromise bill needing no further explanation. Rep. Simon closed.

HEARING ON HB 489

Opening Statement by Sponsor:

Rep. Royal Johnson, House District 88, said HB 489 is an attempt to clean up a problem indicated two years ago when the Emergency Medical Technician (EMT) identification program was put together. There was an attempt to organize a state-wide system for EMT in order that they would know how to handle an individual in need of immediate care. The Comfort One system was organized, and has been working successfully. If an individual has a living will and does not want to be resuscitated, EMT's would not know about it. HB 489 is a technical language change.

Proponents' Testimony:

Ken Threet, Training Coordinator for the Emergency Medical Services Bureau of the Department of Health and Environmental Sciences, provided written testimony. (Exhibit #2)

Dick Brown, Senior Vice President of the Montana Hospital Association, provided written testimony. (Exhibit #3) Mr. Brown also provided a brochure about Comfort One. (Exhibit #4)

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

Sen. Christiaens asked Ken Threet if, in order to enroll in Comfort One, an individual must have a living will and a terminal illness. Mr. Threet said that was correct. This is where the technicality in the law exists because currently the law states that an individual may enroll in Comfort One with a living will only. HB 489 clarifies this.

Sen. Christiaens asked Mr. Threet if the only time HB 489 would

be in effect would be in an emergency situation before going to the hospital. Mr. Threet said that was correct. During a response to an emergency call, there is confusion over who has legal authority regarding resuscitation. HB 489 takes a gray area and makes it black and white.

Sen. Mesaros asked Rep. Johnson about the title of the bill requiring an identification tag, and where these tags would be made available. Rep. Johnson said this problem came up in the House Committee. Rose Hughes of the Nursing Association thought it was unfair to ask patients to buy a bracelet, and HB 489 addresses this.

Sen. Mesaros said the language "will be readily available" seemed vague. Rep. Johnson said bracelets would be readily available in hospitals, nursing homes or wherever such conditions might be cared for.

Sen. Klampe asked Dick Brown about individuals under 18 years of age not being qualified. Mr. Brown said it was his understanding that they were qualified, but it was a guardian's responsibility to make that decision.

Sen. Klampe asked Mr. Brown if a 17 year old could have a (Do Not Resuscitate) DNR bracelet. Mr. Brown said he could not specifically answer the question.

Chairman Eck asked if someone could respond to Sen. Klampe's question regarding individuals under 18 having a DNR tag. Mr. Brown said if an individual under 18 years of age had a physician's written DNR, then they would be eligible for Comfort One.

Tom Gomez, Legislative Council, said the legislation clearly reads that the identification card or bracelet signifies that the wearer is a "qualified patient" of 18 years or older with a living will and a terminal illness. However, it may be possible that such a DNR be administered by an attending physician, provided required documentation be made.

Sen. Rye said this was a moot point because most individuals under 18 think they are "immortal". This represents a highly atypical situation.

Sen. Towe asked Rep. Johnson who requested HB 489. Rep. Johnson said Emergency Medical Technicians and the Comfort One system organizers requested the bill to take care of a technical problem.

Chairman Eck said HB 489 clarifies the qualifications for Comfort One, a living will and a terminal illness. Chairman Eck said she disagreed with Sen. Rye because there are many young people under 18 who have terminal illnesses. Chairman Eck said there is language in the bill to take care of that situation.

Sen. Christiaens said his mother was resuscitated twice during her terminal illness, unnecessarily prolonging her life.

Rep. Johnson said an individual may have a living will at any time, but it becomes activated at the "terminal" stage. Emergency care providers should know exactly what they should do, and not have to guess.

Sen. Towe asked Rep. Johnson about the mechanics of the bill, and what it was the bill did. Rep. Johnson said the qualifications were for the Comfort One program. Rep. Johnson provided a sample form. (Exhibit #5)

Sen. Klampe said the definition of "qualified patient" satisfies the needs for the qualifications of Comfort One. Sen. Klampe said he still didn't see how a 17 year old could have a DNR bracelet.

Dick Brown said an individual under 18 years of age could not enroll himself in the Comfort One program without a legal guardian's consent.

Chairman Eck asked Mr. Brown to address the situation of an attending physician issuing a Do Not Resuscitate order, documented in the patient's medical file. Mr. Brown said a physician, and a physician's assistant, has the authority to override the Do Not Resuscitate order for a patient. Any individual can request a DNR from his physician.

Sen. Towe asked Mr. Brown what has happened during the last two years regarding this legislation. Mr. Brown said 400 people have enrolled in the Comfort One program.

Sen. Towe asked Mr. Brown if those 400 people were wearing DNR bracelets. Mr. Brown said the 200 bracelets ordered had all been distributed, and more were on order. Participants in the program can also carry a DNR card. Also, many forms have been requested by hospitals. There has not been much media coverage yet, but other states are attempting to copy Montana's model.

Sen. Towe asked Mr. Brown if Section 2 of HB 489 would require the Department of Health to purchase the DNR bracelets. Mr. Brown said the bracelet is the best way to be identified as a participant of Comfort One, but not everyone chooses to wear one. They produce the forms and provide them at cost, but there is no funding in the program for the bracelets. Bracelets may also be reused when returned.

<u>Closing by Sponsor</u>:

Rep. Johnson said amendments clarifying language could be worked out if necessary, but the program is one that works well. Sen. Christiaens will carry the bill on the Senate Floor. Rep.

Johnson closed.

EXECUTIVE ACTION ON HB 148

Motion/Vote:

Sen. Klampe moved HB 148 BE CONCURRED IN. The motion carried UNANIMOUSLY. Sen. Klampe will carry the bill on the Floor of the Senate.

EXECUTIVE ACTION ON SB 389

Discussion:

Sen. Towe said he had amendments prepared, but they are being submitted to Billings industries for comments before being brought to the Committee.

EXECUTIVE ACTION ON HB 118

Motion/Vote:

Sen. Christiaens moved HB 118 BE CONCURRED IN. The motion carried UNANIMOUSLY. Chairman Eck will carry the bill on the Floor of the Senate.

HEARING ON HJR 15

Opening Statement by Sponsor:

Rep. Francis Bardanouve said President Bush had denied Oregon a Medicaid Waiver, which would broaden the base of Medicaid coverage through "rationing" of Medicaid. The situation has changed quite a bit since HJR 15 was drafted in December. President Clinton is more lenient in giving Medicaid waivers, and this week his administration approved the Oregon Plan. It would not hurt the state of Montana to look at Medicaid funding and the Oregon Plan which was designed to reduce the cost of Medicaid. HJR 15 may not be so valuable now, and Rep. Bardanouve said that the Department of Social and Rehabilitation Services (SRS) may not be interested in asking for a Medicaid waiver.

Proponents' Testimony:

Dan Shea, concerned citizen, said Medicaid costs are extremely high, and have been rising steadily. In the year 1991 the

would not relate to the title.

Sen. Towe said it would not change it too much.

Tom Gomez said he would rework the language. Sen. Rye requested the term "endorsing" rather than "congratulating" be used.

EXECUTIVE ACTION ON HB 491

Motion:

Sen. Christiaens moved HB 491 BE CONCURRED IN.

Discussion:

Chairman Eck said the bill had been worked on by different groups and everyone agrees to the language and the process in HB 491.

Vote:

The motion carried UNANIMOUSLY. Sen. Christiaens said he would carry the bill on the Floor of the Senate.

EXECUTIVE ACTION ON HB 489

Discussion:

Chairman Eck said there had been questions regarding procedure.

Sen. Towe said he was satisfied with the language in the bill, and concerns were taken care of by existing law.

Motion/Vote:

Sen. Klampe moved HB 489 BE CONCURRED IN. The motion carried UNANIMOUSLY. Sen. Christiaens will carry the HB 489 on the Floor of the Senate.

ROLL CALL

SENATE COMMITTEE Public Health DATE 3-22-9

NAME	PRESENT	ABSENT	EXCUSED
Eck	✓		
Franklin	✓		
Klampe	✓		
Hager			✓
Towe	✓		
Mesaros	✓		
Rye	✓		
Christiaens	✓		

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SENATE STANDING COMMITTEE REPORT

March 23, 1993

MR. PRESIDENT:

We, your committee on Public Health, Welfare, and Safety having had under consideration House Bill No. 489 (first reading copy -- blue), respectfully report that House Bill No. 489 be concurred in.

Signed: Dorothy Eck
Senator Dorothy Eck, Chair

SENATE HEALTH & WELFARE
EXHIBIT NO 2
DATE 3-22-93
BILL NO HB 489

HOUSE BILL 489

Testimony of Ken Threet

March 19, 1993

Madam Chair and members of the committee. I am Ken Threet, Training Coordinator for the Emergency Medical Services Bureau of the Department of Health and Environmental Sciences. I am pleased to support House Bill 489 which was introduced by Representative Johnson at the request of the Department. This bill corrects a technical defect in legislation enacted last session.

The Montana legislature has adopted two laws, now national models, which honor the wishes of the terminally ill or very sick patient to die with dignity while providing clear-cut identification, protocols and liability protection for emergency medical services providers. We are well along in the implementation of the **COMFORT ONE®** program - as it is known and have contracted with the Montana Hospital Association of manage the program for the department.

However, we recently became aware of a drafting problem in the statute. The 1991 legislation technically allows the DNR identification to be issued to an individual who possesses only a living will even though they are not terminally ill. This error **theoretically** could result in the failure to resuscitate a patient who should be resuscitated. House Bill 489 clarifies that the identification cannot be issued to a person who has only a living will in the absence of a terminal condition.

I encourage your support of HB 489 to correct last session's drafting problem. I would be pleased to respond to questions or to further explain the program.

SENATE HEALTH & WELFARE
EXHIBIT NO. 3
DATE 3-22-93
BILL NO. HB 489

Testimony before the
Senate Public Health, Welfare & Safety Committee
by Dick Brown, Senior Vice President
Montana Hospital Association
March 22, 1993

Madame Chair, members of the Committee, I am Dick Brown, Senior Vice President of the Montana Hospital Association. I offer the following comments in support of House Bill 489.

The bill offers an amendment to the Do Not Resuscitate (DNR) law in an effort to clarify language in regard to pre-hospital DNR.

In September of 1991, MHA entered an agreement with the Montana Department of Health & Environmental Sciences (DHES) for the purpose of implementing the prehospital DNR law in Montana. Through the efforts of the DHES, the MHA and a Task Force comprised of representatives from various groups and associations across the state, the pre-hospital DNR law has been developed as the Comfort One program. This program meets the need for prehospital providers to know at the scene when emergency personnel are activated and/or while providing transportation to a patient, immediately and unequivocally, when they are to withhold life-sustaining treatment while providing appropriate symptom control and comfort measures.

Enrollees in the Comfort One program are identified by a bracelet, card and/or form. Individuals can be enrolled in Comfort One by a physician or licensed hospice representative if the individual has a living will in accordance with Montana law **and** has been declared terminally ill by their physician. In lieu of a terminal condition, patients who have a DNR order issued by a physician are also eligible for enrollment. Since implementation of the program, a question regarding enrollment has been presented, and this bill will help clarify exactly who is eligible to participate. House Bill 489 clarifies that an individual must be declared terminally ill, in addition to having a living will. The physician DNR does not change.

In our experience with this program, we have learned that EMS providers follow the Comfort One protocol in regards to resuscitative measures for all patients and feel that Comfort One more clearly defines the actions they are to take.

Since the July 1, 1992, implementation of Comfort One, we have record of 390 individuals enrolled. This figure represents individuals residing in nursing homes, retirement centers and in private homes.

Other states are facing the same dilemma of pre-hospital DNR that was identified in Montana. Many are beginning to adopt the Montana protocols and are using the Montana law and Comfort One program as a model. There has been discussion regarding the potential for a nationally recognized program.

Although initially enrolling hospice and home health patients, it became quickly evident that nursing home residents and others were interested in enrolling in the Comfort One program. As this program develops, more patients and other Montana residents will become enrolled. To avoid question and confusion regarding resuscitation at a scene when EMS personnel are activated or during transport it is important to keep the DNR law intact but to allow for the clarification language provided in this bill. Amending the law to only change the clarification language as presented in this bill will ensure that the same protocol is followed for all Montanans regardless of location or destination, while at the same time provide a clearer method for determining prehospital DNR applicability.

I thank you for the opportunity to testify on behalf of this bill.

SENATE HEALTH & WELFARE
EXHIBIT NO. 4
DATE 3-22-93
BILL NO. HB 489

What is COMFORT ONE?

COMFORT ONE gives seriously ill persons who are not hospital inpatients an opportunity to limit their treatment in a medical emergency.

By enrolling in COMFORT ONE and displaying the proper identification, patients let emergency medical personnel know that they only want supportive care in an emergency.

A COMFORT ONE patient is identified by:
- A COMFORT ONE form
- A COMFORT ONE card
- A COMFORT ONE bracelet

Who is eligible for COMFORT ONE?

You are eligible to enroll in COMFORT ONE if you have:
- A valid Living Will and are enrolled in a licensed hospice program
- A valid Living Will and a terminal illness, verified by a physician
- A formal *Do Not Resuscitate* order issued by a licensed physician

How do you sign up for COMFORT ONE?

Enrollment forms can be obtained from your local:

- hospital
- hospice
- home health agency
- nursing home
- physician's office

For more information call the Montana Hospital Association at 442-1911.

SENATE HEALTH & WELFARE
EXHIBIT NO. 5
DATE 3-22-93
BILL NO. HB 489
Sample Form

PATIENT INFORMATION

PATIENT NAME: _____ DOB: _____
ADDRESS: _____ GENDER: M F

CERTIFICATION OF COMFORT ONE STATUS

This form constitutes reliable documentation that the above identified patient is certified as a **COMFORT ONE** patient by either:

☐ **LIVING WILL and QUALIFYING CONDITION**
The person identified has a living will declaration on file in accordance with Montana law and has been certified as having a terminal illness.

_____
Printed name of representative of licensed hospice program or physician

_____ _____
Signature *Date*

AND/OR

☐ **DO NOT RESUSCITATE (DNR) ORDER**

My signature below constitutes and confirms a formal order to Emergency Medical Services personnel to follow the **COMFORT ONE** protocol. I affirm that this order is written in accordance with accepted medical and ethical guidelines.

_____
Printed name of physician

_____ _____
Physician signature *Date*

INFORMATION TO PATIENT

This form certifies you as a **COMFORT ONE** patient under Montana law. If this form, wallet card or **COMFORT ONE** bracelet is presented to pre-hospital emergency response personnel, they are required to provide the care described on the reverse side. Emergency medical care will be directed at preventing avoidable suffering and providing supportive comfort measures. It is understood that as a **COMFORT ONE** patient you will be allowed to die in the natural course of your illness.

REVOCATION

The COMFORT ONE status of the patient may be revoked, by the patient identified at any time.

If emergency medical services personnel do not see this form, the wallet card or the COMFORT ONE bracelet, they will attempt to resuscitate the patient in accordance with their standard procedures.

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COMFORT ONE
Montana Hospital Association
P.O. Box 5119
Helena, MT 59604-5119

Physician: _____

Physician Phone Number: _____

Hospice/HH Phone Number: _____

Hospital: _____

Hospital Phone Number: _____

For a COMFORT ONE patient, the emergency medical services personnel:

WILL:

■ Suction the airway ■ Administer oxygen ■ Position for comfort ■ Splint ■ Control bleeding ■ Provide pain medication (Advanced Life Support only) ■ Provide emotional support ■ Contact hospice, home health agency or attending physician

WILL NOT:

■ Initiate CPR ■ Administer chest compressions ■ Intubate (ET or EOA) ■ Initiate cardiac monitoring ■ Administer cardiac resuscitation drugs ■ Defibrillate ■ Provide ventilatory assistance

If someone else has already begun resuscitating a COMFORT ONE patient prior to EMS arrival, EMS personnel:

WILL STOP:

■ Cardiopulmonary resuscitation ■ Ventilatory assistance ■ Cardiac medications

COMFORT ONE
Montana Hospital Association
P.O. Box 5119
Helena, MT 59604-5119